

Local Agency Section 106 Delegated Authority

October 2020

Per Section 106 of the National Historic Preservation Act, 36 CFR 800.2(c)(4), and the State Historic Preservation Office (SHPO) the Federal Highway Administration (FHWA) is required to delegate authority before a local agency can initiate consultation with the SHPO on any project.

Prior to initiating consultation with SHPO, the local agency must provide PROOF of FHWA's delegation and the project will either have federal funds or a federal nexus.

Therefore, the items listed below are required to be included with the Section 106 application before a local agency can initiate consultation with the SHPO:

- FHWA Delegate Authority letter dated October 16, 2020 - This letter must accompany every Section 106 application submitted to initiate consultation with the SHPO; a copy is attached to this notice.

And one of the following items confirming federal funds or federal nexus:

- A screenshot showing the proposed project is listed in a Transportation Improvement Program (TIP) or the State Transportation Improvement Program (STIP), or
- Documentation that the project is approved by the administering body. Examples include (but are not limited to):
 - Local Agency Program bridge or safety selection letter
 - Office of Economic Development conditional commitment letter
 - Rural Task Force Fiscal Constraint Sheet/Traditional Balance Sheet
 - Other documentation that demonstrates the project has been approved locally if the project has **not** been approved by FHWA (e.g. STIP pending) yet
 - Federal Permit by the US Army Corps of Engineers



U.S. Department
of Transportation
**Federal Highway
Administration**

Michigan Division

October 16, 2020

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Director, Bureau of Development
Michigan Department of Transportation
P.O. Box 30050
Lansing, MI 48909

Federal Highway Administration Delegated Responsibility
for Local Agency Requests for Section 106 Consultation

Dear Mr. Wieferich,

Thank you for your October 16, 2020 letter requesting FHWA concurrence with the proposed MDOT procedure to meet new State Historic Preservation Office (SHPO) requirements for Section 106 review applicants to show proof of a federal nexus when submitting proposed projects for review and comment. Consulting with the SHPO is required when any undertaking has a federal nexus such as: federal funding, a federal approval, or a federal permit. Under Section 106 of the National Historic Preservation Act, and 36 CFR 800.2(c)(4), the Federal Agency having compliance oversight responsibilities may delegate to State and Local Agency applicants the responsibility to initiate consultation with SHPO.

The Michigan Division of FHWA concurs if one of the following conditions apply, a Local Agency may submit a Section 106 application to the SHPO and initiate consultation:

- The proposed project is listed in a Transportation Improvement Program (TIP) or the State Transportation Improvement Program (STIP) or;
- The project is approved by the administering body, such as: MDOT Local Agency Program (LAP) for safety and bridge projects; by the Michigan Rural Task Force (RTF); or one of the 14 recognized Metropolitan Planning Organizations.

Listing the project in a Federal mandated TIP or STIP officially indicates a Local Agency intends to use Federal aid for the project, as does approval from an administering body. Once one of these actions has occurred, the proposed project has a federal nexus.

If the Local Agency sends proof of the federal nexus as outlined above, along with a copy of this letter to the SHPO, it will constitute FHWA's authorization and delegation to initiation consultation with SHPO in accordance with Section 36 CFR 800.2(c)(4)

If you have any questions, please contact Ruth Hepfer, Environment/Right-of-Way Specialist by email at ruth.hepfer@dot.gov or (517)702-1847.

Sincerely,

Mark G. Lewis, P.E.

Mark G. Lewis, P.E.
Program Development Unit Manager

Digitally signed
by MARK G LEWIS
Date: 2020.10.16
15:37:30 -04'00'

For: Russell L. Jorgenson, P.E.
Division Administrator